

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Gerald Kolberg
DOCKET NO.: 05-01514.001-R-1
PARCEL NO.: 11-35-227-014

The parties of record before the Property Tax Appeal Board are Gerald Kolberg, the appellant, and the McHenry County Board of Review.

The subject property consists of an 8,232 square foot parcel (56' x 147') located in Marengo, Marengo Township, Illinois, which has been improved with a one-story frame dwelling. The dwelling was constructed in 1958 and consists of 940 square feet of living area. Features include a full unfinished basement, central air conditioning, and a detached one-car-door garage of 864 square feet of building area which includes a workshop area.

The initial issue to be addressed in this proceeding concerns square foot measurements of both the subject property and the appellant's suggested comparable properties. For purposes of this appeal, appellant testified that he presented data of what he believed to be the living area square footage measurements of the subject property and his suggested comparables based on a real estate agent's interior measurements of properties as set forth in multiple listing service sheets. It has since come to the appellant's attention that the assessor utilizes exterior measurements of dwellings to arrive at living area square footage measurements and dimensions of other structures such as garages. As such, appellant acknowledges that he has no evidence to dispute the records of the assessor as to measurements for both the subject and the appellant's comparable properties. Thus, for purposes of the instant decision, except as next discussed, measurements as recorded on the board of review's spreadsheets submitted in this matter regarding the subject and the appellant's comparables will be utilized by the Property Tax Appeal Board.

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the McHenry County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	\$	9,467
IMPR.:	\$	31,020
TOTAL:	\$	40,487

Subject only to the State multiplier as applicable.

In addition, appellant contended that the land area of the subject property had been recorded in error by the assessor. The assessor had represented in the analysis that the subject parcel consisted of 9,702 square feet (66' x 147'). However, at the hearing, appellant displayed a plat map to the board of review representative. After having done so, the parties agreed that the subject parcel should be deemed to contain 8,232 square feet of land area (56' x 147'). Moreover, the board of review requested that any adjustment in the land assessment based on this reduction in size be no lower than \$1.15 per square foot as reflected in the assessment equity data submitted in this matter.

The appellant's petition indicated both unequal treatment in the assessment process and overvaluation as the bases of the appeal. In support of these arguments, the appellant presented evidence of assessment data and recent listing or sale prices of three suggested comparable properties in the area to compare to the subject property along with photographs of the subject and multiple listing service sheets concerning the comparables. In addition, appellant itemized a number of repairs that should be performed on the subject property along with estimated repair costs.

The comparables suggested by the appellant consist of properties located in the subject's immediate area. The parcels range in size from 4,560 to 8,712 square feet of land area and have land assessments of either \$8,842 or \$10,001 or \$1.15 and \$1.94 per square foot of land area. The subject, with an assumed square footage of land area of 9,702 had a land assessment of \$10,535 or \$1.09 per square foot of land area. As noted above, the correct land area square footage of the subject parcel is 8,232 and the board of review conceded an adjustment in the land assessment was necessary given the change in size.

Each of these parcels suggested by the appellant has been improved with a one-story dwelling of either frame or brick exterior construction. While the ages of two of the comparables were unknown on this record, the third comparable was of a similar age to the subject property. Each of the dwellings has a different type of foundation: one has a concrete slab foundation; one has a crawl space foundation; and one has an unfinished basement of 784 square feet of building area. One of the comparables includes central air conditioning. Each comparable includes a garage ranging in size from 280 to 320 square feet of building area. The dwellings range in size from 600 to 888 square feet of living area. The improvement assessments of these comparables range from \$16,503 to \$25,980 or from \$25.37 to \$33.14 per square foot of living area while the subject has an improvement assessment of \$34,780 or \$37.00 per square foot of living area.

These same three suggested comparables sold between June 2005 and October 2005 for prices ranging from about \$119,000 to \$136,000 or from \$141.89 to \$198.33 per square foot of living area including land. Appellant testified that this sales data was gathered from a real estate agent on "sold" properties, however, as noted by the board of review on cross-examination, the underlying documentation regarding comparable number 1 does not reflect a "sales price," but only reflects the listing price of \$119,000, presumably the high end of what the property would have ultimately sold for.

Appellant also testified that there was nothing "superior" about the quality of construction of the subject property contrary to the assessor's documentation referring to a higher quality grade of the subject dwelling. Moreover, the subject's garage, while over-sized for a workshop, has simply a one-car garage door as shown in the submitted photograph as opposed to the assessor's notation of a "three-car" garage.

No evidence was presented at the hearing regarding the appellant's list of needed repairs to the garage roof, a garage window and wall that are "rotting," a soil pipe needing replacement, and a deteriorating sidewalk. The listing states an estimated repair cost ranging from \$5,900 to \$8,150, although no actual written estimates to repair the subject property were submitted.

Under specific cross-examination questions, the appellant advised that he purchased the subject property in 1985 at auction for \$52,000; the property is currently utilized as rental property.

On the basis of these comparisons, the appellant felt that a total assessment of \$34,001 was appropriate consisting of a land assessment of \$8,296 or \$0.86 per square foot of land area and an improvement assessment of \$25,705 or \$27.35 per square foot of living area. Based on the requested relief of the appellant, the estimated market value of the subject property would be \$102,074 using the 2005 three year median level of assessments for McHenry County as developed by the Illinois Department of Revenue of 33.31%.

The board of review presented its "Board of Review Notes on Appeal" wherein its final assessment of \$45,315 for the subject property was disclosed. The subject's assessment reflects a market value of \$136,040 or \$144.72 per square foot of living area including land using the 2005 three year median level of assessments for McHenry County of 33.31%. In support of the assessment, the board of review submitted two spreadsheets: one spreadsheet was based on equity and repeated the appellant's three comparable properties along with modifications to living area square footage and/or garage building areas and one

spreadsheet was based on market data utilizing four properties identified only by property identification number. Only the property record card for the subject property was submitted by the board of review.

At this hearing, the board of review presented testimony that at the local board of review hearing, based on the comparables presented by the appellant and the assessor, a reduction in the assessment was warranted to bring the subject more in line both in terms of equity and market sales in the area. Thus at the local hearing, the board of review raised the land assessment from \$8,296 to \$10,535 based on the equity information provided when the land area square footage was believed to be 9,702 square feet. The board of review at the local level reduced the improvement assessment from \$46,335 or \$49.29 per square foot of living area to \$34,780 or \$37.00 per square foot of living area.

With regard to the land assessment at issue in this hearing, the board of review reiterated that with the new land area square footage figure of 8,232, the land should be assessed at no less than \$1.15 per square foot like the comparable properties presented.

With regard to the subject's improvement assessment of \$37.00 per square foot of living area, the board of review member testifying was unable to explain the basis for the purported superior quality grade of the subject property as stated on the documentation prepared by the township assessor who was not present to testify. Nothing on the property record card of the subject property indicates the quality grade assigned to the subject or the rationale therefore. Documentation submitted by the board of review did note that when comparing the subject property to the three comparables presented by the appellant, the subject property had "superior" or greater living area square footage than the comparables, the subject had a basement whereas only appellant's comparable number 3 had a basement, the subject had "superior" or greater garage building area square footage than the appellant's suggested comparables, and the subject had central air conditioning whereas only appellant comparable number 2 had central air conditioning.

The market data grid analysis presented by the board of review has, except stating one comparable is within one block of the subject, no data with regard to proximity of the comparables to the subject; furthermore, no data regarding age, number of stories, or exterior construction was provided for any of the board of review's comparables. The lots presented by the board of review range in size from 8,584 to 9,702 square feet of land area. The living area square footage of the comparables ranges from 884 to 1,152 square feet; three of the comparables have basements ranging from 884 to 1,064 square feet of building area,

but whether the basements are finished or unfinished is not stated. None of the properties has central air conditioning, but each has a garage ranging from 308 to 576 square feet of building area. No dates of sale were presented, but the purchase prices of these four suggested comparables were from \$154,000 to \$168,500 or from \$142.36 to \$174.21 per square foot of living area including land. Board of review comparable number 1 was also noted as being a property in poor condition and a "bank repossession."

Based on its analysis of these properties, the board of review requested confirmation of the subject's assessment except for an appropriate adjustment of the land assessment in light of the difference in square footage as established at this hearing.

In rebuttal, the appellant questioned the determination of a superior "quality grade" as purportedly assigned to the subject property by the assessor. Appellant also stated that for this community, location is not a factor as similar houses are "pretty much the same" all over the community.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

Taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill. 2d 1, 544 N.E.2d 762 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction.

Based upon the modified size of the subject parcel, the record indicates the land assessment of the subject property is excessive for parcels of similar size. Land assessments in close proximity to the subject are either \$1.15 or \$1.94 per square foot of land area depending on lot size; the larger lots have a lower assessment per square foot. The instant parcel of 8,232 square feet of land area would have an excessive per square foot assessment of \$1.28 given the subject's current land assessment of \$10,535. The Property Tax Appeal Board finds that the most similarly-sized parcels have a land assessment of \$1.15 per square foot of land area. Thus, the Board finds that the subject parcel's land assessment is currently excessive and a reduction in the land assessment is warranted.

An analysis of the record also indicates the assessed valuation of the subject improvement is excessive when compared to the assessments of other, similar improved properties in the area. For purposes of assessment equity, the parties submitted three

comparable properties for consideration. The three comparables present a range of improvement assessments from \$25.37 to \$33.14 per square foot of living area. Two comparables differ from the subject in foundation; the age of two of the comparables is unknown; and two of the comparables lack central air conditioning. On this record, the board of review failed to adequately address the appellant's equity argument where all the board of review did was repeat the appellant's evidence and correct some square footage issues in the data submitted. More importantly, the board of review failed to offer any justification in the variation in assessments as presented in this record. Equity or uniformity of assessments must take precedence.

Even with all of these differences, the Property Tax Appeal Board finds that appellant's comparable number 3 is most similar to the subject in age, size, and features. Although having a different exterior construction, comparable number 3 is but eight years older than the subject and slightly smaller with an unfinished basement. After considering adjustments to the comparables presented by both the parties for differences when compared to the subject, the Board finds the subject's improvement assessment of \$37.00 per square foot of living area is excessive as it is above the range established by all the assessment equity comparables presented. As will be discussed further below, the appellant's comparables which are most similar to the subject in physical attributes as well as in market value considerations support a reduction in the subject's improvement assessment. On the basis of the assessment equity information submitted by both parties, the Board finds that the evidence has demonstrated that the subject improvement is assessed in excess of what equity would dictate. Therefore, the Property Tax Appeal Board finds that a reduction of the subject's improved assessed valuation is warranted.

With regard to the overvaluation claim, the parties submitted a total of seven sales of suggested comparable properties. The four suggested sales comparables from the board of review did not provide sufficient factual data upon which the Property Tax Appeal Board could rely upon in analyzing the properties for purposes of comparability. While location may not have been a factor, however, in the absence of age, number of stories, and exterior construction, the Board would be left to speculate whether the sales comparables presented by the board of review were truly similar to the subject property or not for purposes of useful market data comparison. As such, the Board has given no weight to the sales comparables suggested by the board of review.

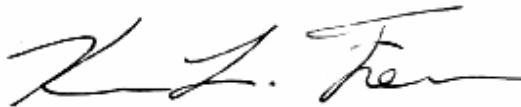
As noted above, appellant utilized the same three comparables for both his equity and market value contentions; appellant has established sufficient evidence to warrant a reduction based on

lack of uniformity. The appellant's market value evidence supports the findings made by the Property Tax Appeal Board regarding lack of uniformity.

This is a final administrative decision of the Property Tax Appeal Board are subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.



Chairman



Member



Member



Member



Member

DISSENTING: _____

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: September 28, 2007



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.